Department of Health and Human Services

OFFICE OF INSPECTOR GENERAL

TEXAS INAPPROPRIATELY CLAIMED NEARLY $1.8 MILLION IN FEDERAL MEDICAID FUNDS FOR PRIVATE MEDICAID MANAGEMENT INFORMATION SYSTEM CONTRACTOR COSTS

Inquiries about this report may be addressed to the Office of Public Affairs at Public.Affairs@oig.hhs.gov.

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Deputy Inspector General
for Audit Services

August 2023
A-06-19-09003

Office of Inspector General

https://oig.hhs.gov

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OFFICE OF AUDIT SERVICES FINDINGS AND OPINIONS

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Report in Brief
Date: August 2023
Report No. A-06-19-09003

U.S. DEPARTMENT OF HEALTH & HUMAN SERVICES
OFFICE OF INSPECTOR GENERAL

Texas Inappropriately Claimed Nearly $1.8 Million in Federal Medicaid Funds for Private Medicaid Management Information System Contractor Costs

Why OIG Did This Audit

The Medicaid Management Information System (MMIS) is an integrated group of procedures and computer processing operations designed to meet principal objectives, such as processing medical claims. States report costs related to private MMIS contract services as administrative costs. Generally, the Federal Government reimburses States 50 percent of their administrative costs; however, for certain approved MMIS costs, the Federal Government reimburses 90 percent or 75 percent. States generally are required to obtain prior approval in an Advanced Planning Document (APD) to receive the higher reimbursement rates.

For Federal fiscal years 2013 through 2017, 10 States claimed more than 50 percent of the total costs related to private MMIS contractor services. Texas ranked 2nd highest.

Our objective was to determine whether Texas followed applicable Federal and State requirements related to claiming Federal Medicaid reimbursement for private MMIS contractor costs.

How OIG Did This Audit

We reviewed $129.3 million ($97.7 million Federal share) in claimed MMIS private contractor costs. We reviewed Texas' APDs and related supporting documents.

What OIG Found

Texas followed applicable Federal and State requirements related to claiming Federal Medicaid reimbursement for $126.8 million ($96 million Federal share) in private MMIS contractor costs. However, Texas incorrectly claimed the remaining $2.5 million. For those costs, Texas inappropriately received $1.8 million in Federal funds.

Texas did not have adequate policies and procedures in place to ensure that MMIS private contractor costs were tracked to the correct APDs. Texas was not able to prevent or detect when it claimed inadequately supported costs, costs allocated to Medicaid using a methodology that was not approved in a Public Assistance Cost Allocation Plan (CAP), costs that were approved for the 50- or 75-percent rate but were claimed at the 90-percent rate, and costs that were claimed twice.

What OIG Recommends and Texas Comments

We recommend that Texas refund the $1.8 million Federal share to the Federal Government and strengthen or establish policies and procedures to track its private MMIS contractor costs to APDs and ensure that sufficient details are provided on contractors' employee timesheets, costs are allocated to Medicaid based on an approved methodology in the CAP, the Federal match is claimed at the approved rate, and it does not claim costs when it is reimbursed for those costs by other agencies.

In written comments on our draft report, Texas did not directly concur or nonconcur with our findings and recommendations. However, Texas described actions it has taken in response to our finding regarding missing timesheets and recommendation 3, which included updating its policies and procedures effective September 7, 2022, for staff completion and supervisory review of timesheets.

After reviewing Texas' comments, we removed one finding and updated the recommendations based on additional information provided by Texas. Specifically, we reduced the first recommendation for the State to refund the Federal share from $2,085,829 to $1,776,003. We maintain that our remaining findings and recommendations are valid.

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INTRODUCTION

WHY WE DID THIS AUDIT

The Medicaid Management Information System (MMIS) is an integrated group of procedures and computer processing operations designed to meet Medicaid program objectives, such as processing medical claims. States may contract with private companies to design, develop, install, and operate the MMIS. States report costs related to private MMIS contract services as administrative costs. Generally, the Federal Government reimburses States 50 percent of their administrative costs; however, for certain approved MMIS costs, the Federal Government reimburses 90 percent or 75 percent. States are generally required to obtain prior approval from the Centers for Medicare & Medicaid Services (CMS) to receive reimbursement rates higher than the 50-percent administrative rate. For Federal fiscal years 2013 through 2017, 53 States and territories claimed $12.1 billion in total costs related to private MMIS contract services and received $9.4 billion in Federal funds. Ten States claimed more than 50 percent of those total costs. Texas ranked 2nd highest in total private MMIS contract services costs claimed during this period.

OBJECTIVE

Our objective was to determine whether the Texas Department of Health and Human Services Commission (State agency) followed applicable Federal and State requirements related to claiming Federal Medicaid reimbursement for private MMIS contractor costs.

BACKGROUND

Medicaid Program

The Medicaid program provides medical assistance to low-income individuals and individuals with disabilities. The Federal and State Governments jointly fund and administer the Medicaid program. At the Federal level, CMS administers the program. In Texas, the State agency administers the Medicaid program. Although the State agency has considerable flexibility in designing and operating its Medicaid program, it must comply with applicable Federal requirements.

States use the Form CMS-64, Quarterly Medicaid Statement of Expenditures (CMS-64 report) to show actual Medicaid expenditures for each quarter. States report expenditures associated with medical services, such as claims for doctor visits and administrative costs, including the cost of processing claims for medical services. The CMS-64 report contains lines for different types of medical expenditures and administrative costs.

Medicaid Management Information System Private Contractor Costs

The administrative cost lines 2B and 4B of the CMS-64 report are reserved for reporting the costs of private MMIS contract services. Generally, the Federal Government reimburses States 50 percent of their administrative costs. However, the Federal Government reimburses private MMIS contractor costs on:

- line 2B, up to 90 percent, for design, development, installation, or enhancement of an MMIS, and

- line 4B, up to 75 percent, for operation.

States are required to obtain prior approval from CMS to receive Federal Medicaid funds for acquiring automated data processing equipment or services, which includes MMIS services, when:

- acquisition costs to be claimed at the regular 50-percent rate meet or exceed $5 million,

- the State plans to claim costs at enhanced matching rates (i.e., the 75- or 90-percent rate) and the contract is anticipated to or will exceed $500,000, or

- acquisition costs for a sole source/non-competitive contract meet or exceed $1 million.[1]

Contract Procurement and Approval Process

The procurement process starts with the State agency requesting sealed bids or proposals for competitive contracts or solicitations of a proposal for sole-source contracts.

Once the contract is awarded, the contractor writes and submits an Advanced Planning Document (APD) to the State. An APD is a planning document that provides a recorded plan of action to request funding approval for a project that will require the use of automated data processing services or equipment.[2] Further, the APD includes the period during which the State agency will incur the private MMIS contractor costs and the Federal matching percentages at which those costs will be claimed. The State agency sends the APD to CMS for approval. If CMS approves the APD, then the contractor may begin work on the project.

HOW WE CONDUCTED THIS AUDIT

The State agency claimed $803.4 million ($617.0 million Federal share) from October 1, 2015,

[1] 45 CFR §§ 95.611(a)(1), (a)(2), (a)(3), and (b)(2)(iii).

[2] 45 CFR § 95.610.

through September 30, 2018, on the CMS-64 report administrative cost lines 2B and 4B.

share) in claimed MMIS private contractor costs.[3] We traced costs charged to APDs to supporting documentation and determined whether the State agency's practices on claiming Federal Medicaid reimbursement for private MMIS contractor costs met Federal requirements.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

Appendix A contains the details of our audit scope and methodology.

FINDINGS

The State agency followed applicable Federal and State requirements related to claiming Federal Medicaid reimbursement for $126.8 million ($96.0 million Federal share) reviewed in private MMIS contractor costs. However, the State agency incorrectly claimed the remaining $2.5 million ($1.8 million Federal share), or almost 2 percent of the costs we reviewed:[4]

- $1.6 million ($1.2 million Federal share) in costs that were not adequately supported,
- $603,715 ($470,967 Federal share) in costs that were allocated to Medicaid using a methodology that was not approved in a Public Assistance Cost Allocation Plan (CAP),
- $140,135 ($21,020 Federal share) in costs that CMS approved for the 50- or 75-percent rate but the State agency claimed at the 90-percent rate, and
- $131,874 ($98,905 Federal share) in costs the State agency claimed twice.

FEDERAL REQUIREMENTS FOR CLAIMING PRIVATE CONTRACTOR COSTS

The Social Security Act allows for a 90-percent Federal matching rate for costs for designing, developing, or installing mechanized claims systems and a 75-percent rate for costs for operating those systems.[5]

[3] We expressed an opinion only on the costs we selected or included because of systemic issues.

[4] The exact amount of unallowable Federal funds was $1,776,003.

[5] Social Security Act §§ 1903(a)(3)(A) and (B).

Federal regulations state that a Federal matching rate of 90 percent is available for designing, developing, installing, or enhancing a mechanized claims processing and information retrieval system only if the APD is approved by CMS prior to the State's expenditure of funds for these purposes.[6] Federal regulations also allow for a Federal matching rate of 75 percent of expenditures for operating a mechanized claims processing and information retrieval system approved by CMS.[7]

For costs to be allowable under Federal awards, they must be allocable to the Federal award and be adequately documented. A cost is allocable to a Federal award if the goods or services involved are chargeable or assignable to that Federal award in accordance with the relative benefits received. This standard is met if the cost benefits both the Federal award and other work of the State agency and can be distributed in proportions that may be approximated using reasonable methods.[8]

A CAP sets forth the procedures that the State agency will use in identifying, measuring, and allocating all State agency costs incurred in support of all programs administered or supervised by the State agency.[9] A State plan must provide that the State Medicaid agency will have an approved CAP on file with the Department of Health and Human Services in accordance with the requirements in subpart E of 45 CFR part 95.[10] Subpart E also sets forth the effect on Federal Financial Participation if the requirements contained in that subpart are not met. Further, under Subpart E, if costs under Medicaid are not claimed in accordance with the approved CAP (except as otherwise provided in § 95.517), or if the State fails to submit an amended CAP as required by § 95.509, the costs improperly claimed will be disallowed.[11]

THE STATE AGENCY'S COSTS WERE UNALLOWABLE OR CLAIMED AT HIGHER FEDERAL MATCHING RATES THAN ELIGIBLE

The State Agency Claimed Costs That Were Not Adequately Supported

The State agency claimed $1.6 million in costs that were not adequately supported. Specifically, the State agency claimed costs for which it did not have supporting documentation (i.e., missing invoices or timesheets) or for which it did not have documentation to support the

[6] 42 CFR § 433.112(a).

[7] 42 CFR § 433.116(a).

[8] 45 CFR §§ 75.403(a), (g) and 75.405(a)(2).

[9] 45 CFR § 95.505.

[10] 42 CFR § 433.34.

[11] 45 CFR §§ 95.509 and 95.519.

allocation of employees' time to the projects (i.e., detailed timesheets supporting contract employees' efforts).

Although the State agency had policies and procedures in place to collect supporting documentation before a cost was approved for payment, the missing invoices or timesheets were the result of human error in that collection process because missing invoices or timesheets were not a widespread problem. As for the lack of detailed timesheets, the State agency did not have the policies and procedures to ensure consistent timesheet detail quality, and each project manager was responsible for determining the detail level approved for each project's contract employee efforts. Some timesheets lacked details regarding allocation of actual effort of hours by project when contract employees worked on multiple projects with different Federal matching rates. For those timesheets that did not have allocation of efforts, we questioned only the difference between Federal funding at the higher rate and the lower rate (i.e., the 50-percent or 75-percent rate). As a result, the State agency inappropriately received $1.2 million in Federal funds for costs claimed that were not adequately supported.

The State Agency Claimed Costs That Were Not Allocated to Medicaid Using an Approved Methodology

The State agency inappropriately claimed, in the form of a fee, $603,715 in costs allocated to Medicaid using a methodology that was not in an approved CAP.[12] The fee, which ranged from 1 to 4 percent of MMIS costs, was charged on most claimed costs.

The State agency is required to procure MMIS contracts using contracts negotiated through the Texas Department of Information Resources (DIR), which delivers technology solutions to State and local government entities. DIR builds its administrative fee into the contract rates contractors charge other State agencies for services.

The State agency's personnel were unaware the fee was being allocated to Medicaid costs. State officials said the fee would not be in the approved CAP because it is not detailed down to the fee level. As a result, the State agency inappropriately received $470,967 in Federal funds for costs that that were not approved in a CAP.

The State Agency Claimed Costs at the 90-Percent Rate That Were Approved for the 50- or 75-Percent Rate

The State agency claimed, at the enhanced 90-percent rate, $140,135 that was approved at either the 50-percent or the 75-percent rate because it was operational in nature. In some instances, the State's supporting documentation identified the amounts as operations amounts but charged the enhanced 90-percent rate rather than the 50-percent or the 75-percent rate.

[12] This amount represents up to 1 percent of the total costs for contracts that we could identify as procured through the Texas Department of Information Resources (DIR). We used 1 percent to be conservative.

The State agency did not have adequate policies and procedures in place to track its private MMIS contractor costs to APDs, so the State agency did not detect when it claimed costs at incorrect matching percentages. As a result, the State agency inappropriately received $21,020 in Federal funds (i.e., the difference between Federal funding at the enhanced rates and the approved 50-percent or 75-percent rate).

The State Agency Claimed Costs Twice

The State agency inappropriately claimed $131,874 for costs the State agency claimed twice as Medicaid costs on the CMS-64. First, the State agency paid its claims processing contractor for services it had provided and claimed those costs on the CMS-64 report. Next, the State agency allocated a portion of the claims processing contractor costs to another agency within the State Government and billed that other agency for the allocated costs. The other agency reimbursed the State agency for the allocated costs. When the other agency's costs were later claimed on the CMS-64 report, the allocated costs, which had already been claimed once by the State agency, were claimed again.

The State agency did not have adequate policies and procedures to detect when it claimed costs reimbursed by other agencies. As a result, the State agency inappropriately received $98,905 in Federal funds for costs it claimed twice.

RECOMMENDATIONS

We recommend that the Texas Department of Health and Human Services Commission:

- refund the $1,776,003 Federal share to the Federal Government,
- ensure DIR costs are allocated to Medicaid based on an approved methodology in the CAP,
- establish policies and procedures to ensure that its contractors' employees complete timesheets with sufficient detail of actual effort by project to support costs allocated to Medicaid, and
- strengthen policies and procedures to track its private MMIS contractor costs to APDs and ensure that the Federal match is claimed at the approved rate and ensure that it doesn't claim costs when it is reimbursed for those costs by other agencies.

STATE AGENCY COMMENTS AND OFFICE OF INSPECTOR GENERAL RESPONSE

STATE AGENCY COMMENTS

In written comments on our draft report, the State agency did not directly concur or nonconcur with our findings and recommendations. However, the State agency described actions it has taken in response to our finding regarding missing timesheets and recommendation 3, which included updating its policies and procedures effective September 7, 2022, for staff completion and supervisory review of timesheets.

Regarding our finding regarding missing invoices, the State agency stated that a vendor invoice is a requirement for the variable cost components of payments. However, the State agency stated that most of the costs identified for disallowance were from missing invoices for fixed-rate components identified in the contract fee schedules. The State agency believed that its failure to provide a vendor invoice should not negate the allowability of the fixed-rate components.

Regarding our finding that costs that were not allocated to Medicaid using an approved methodology, the State agency stated that, fees associated with MMIS contractors are included in the quoted price provided by the vendor and are not uniquely identified or separated from the quoted price of the product or service. The State agency further stated that, while DIR is a State agency, the DIR functions as a contractor to the State agency. Therefore, the DIR administrative fees should be included in the contracted services and do not require Federal approval.

Regarding our finding that costs were claimed twice, the State agency asserted that the costs were not claimed twice, and the associated policies and procedures in place at that time were acceptable to detect when claimed costs were reimbursed by other agencies. To support its assertion, the State agency provided additional documentation.

Finally, regarding our recommendation to strengthen policies and procedures to track its private MMIS contractor costs to APDs and ensure that the Federal match is claimed at the approved rate and ensure that it doesn't claim costs when it is reimbursed for those costs by other agencies, the State agency stated that it has robust policies and procedures in place to track MMIS contractor costs to approved APDs and that it reviews and validates each invoice before payment is made.

The State agency also provided additional information for a draft finding, which we removed from the final report.

The State agency's comments are included in their entirety as Appendix B.

OFFICE OF INSPECTOR GENERAL RESPONSE

After reviewing the State agency's comments, we removed one finding and updated the recommendations based on additional information provided by the State agency. Specifically, we reduced the first recommendation for the State to refund the Federal share from $2,085,829 to $1,776,003. We maintain that our remaining findings and recommendations are valid.

Regarding the State agency's first comment, we maintain that a vendor invoice is an important piece of documentation to adequately support the allowability of costs, regardless of whether the State agency is paying a fixed- or variable-rate contract component.

We also maintain that costs claimed to Medicaid must be allocated using an approved methodology as Federal regulations require.

After reviewing the additional documentation the State agency provided related to the costs claimed twice and discussing that documentation with State agency officials, we determined the additional documentation does not negate our finding because the documentation did not show that the costs were not claimed twice.

Finally, we maintain that the State agency needs to strengthen its policies and procedures to track its private MMIS contractor costs to APDs and ensure that the Federal match is claimed at the approved rate and ensure that it doesn't claim costs when it is reimbursed for those costs by other agencies to prevent the issues described in this report from reoccurring.

APPENDIX A: AUDIT SCOPE AND METHODOLOGY

SCOPE

The State agency claimed $803,365,822 ($616,993,195 Federal share) from October 1, 2015, through September 30, 2018, on the CMS-64 report administrative cost lines 2B and 4B. However, our audit covered only selected transactions of $129,270,242 ($97,740,836 Federal share) in claimed MMIS private contractor costs.[13]

We limited our review of the State agency's internal controls to those related to the MMIS private contractor costs because our objective did not require an understanding of the State agency's overall internal control structure.

We conducted our fieldwork at the State agency's offices in Austin, Texas.

METHODOLOGY

To accomplish our objective, we:

- reviewed applicable Federal and State requirements related to claiming Federal Medicaid reimbursement for private MMIS contractor costs,
- obtained the State agency's CMS-64 report for lines 2B and 4B MMIS costs and tied the costs to its detailed cost information,
- interviewed State agency officials to gain an understanding of the State agency's written policies and procedures related to claiming MMIS private contractors' costs and reviewed those policies and procedures,
- compared selected costs in the CMS-approved APDs with cost assignments in the State agency's accounting system to determine whether the State agency charged its costs to the correct APDs,
- determined whether the selected costs the State agency charged to contracts and APDs were supported by invoices and whether the State agency claimed Federal Medicaid reimbursement appropriately,
- calculated the Federal share the State agency received because of unallowable or incorrectly claimed MMIS private contractor costs, and
- discussed the results of our audit with the State agency.

[13] See Footnote 3.

We conducted this performance audit in accordance with generally accepted government auditing standards. Those standards require that we plan and perform the audit to obtain sufficient, appropriate evidence to provide a reasonable basis for our findings and conclusions based on our audit objectives. We believe that the evidence obtained provides a reasonable basis for our findings and conclusions based on our audit objectives.

APPENDIX B: TEXAS DEPARTMENT OF HEALTH AND HUMAN SERVICES COMMISSION COMMENTS

Texas Health and Human Services Commission (HHSC)
May 31, 2023 Management Response to the
U.S. Department of Health and Human Services Office of Inspector General
Draft Report - A-06-19-09003

"Procurement of Private MMIS Contracts"

Management Response Recommendation 1

Recommendation 1: *We recommend that the Texas Department of Health and Human Services Commission refund the $2,085,829 Federal share to the Federal Government.*

The recommendation relates to five issues identified in the audit report. The five issues and our associated responses are as follows:

- ***Issue 1: Costs not adequately supported*** *(Remaining total computable $1,534,509.32 and remaining federal share $1,166,726.71)*

  There were five Health and Human Services Commission (HHSC) vouchers for which the supporting documentation submitted was 'not accepted'. In addition, there are two Department of State Health System (DSHS) vouchers where you indicate timesheets were 'not accepted'.

Management Response:

Missing Invoices

While HHSC management agrees that a vendor invoice is a requirement for the variable cost components of payments, the majority of the costs identified for disallowance ($1,455,354.88) were for fixed rate components identified in the contract fee schedules which were provided as payment documentation. The agency understands that failure to provide a vendor invoice is identified as an audit finding, but we believe this should not negate the allowability of the fixed rate components as part of the vendor's contracted reimbursement.

As noted in the recommendation, the payments lacking documentation were the result of human error in the payment processing and not a widespread problem. The scope of the audit covered a period from October 1, 2015, through September 30, 2018, and covered expenses from both the Texas Health and Human Services Commission (HHSC) and legacy Texas Department of Aging and Disability Services (DADS). Since the merger of these agencies, HHSC Accounting has revised the Accounts Payable Policy and Procedures Manual to reflect the current business practices including documentation requirements for payment processing.

Missing Timesheets

In state fiscal year 2022, the IT division completed the IT Staff Augmentation Contractor (ITSAC) Improvement Initiative. The ITSAC Improvement Initiative had three goals:

- Improve data management and reporting
- Promote ethical, standardized practices
- Promote efficient practices

As part of the ITSAC Improvement Initiative, the IT division published the ITSAC Policy on September 7, 2022, completing the ITSAC Improvement Initiative.

Section 4.2.1 of the ITSAC Policy states:

> *Contractors must complete a timesheet to report the numbers of hours worked. The timesheet must include the:*
>
> - *Number of hours worked for each applicable department ID.*
> - *Purchase order number.*
>
> *Supervisors must review contractor timesheets for accuracy and must approve the timesheets once accuracy has been validated. The following are acceptable forms of timesheet approval:*
>
> - *Ink signature*
> - *Validated electronic signature*
> - *Email from the supervisor approving an attached timesheet*
>
> *Supervisors must monitor the number of hours contractors work, ensuring that the contractors do not exceed the number of hours on the purchase order.*
>
> *Contractors must submit their approved timesheets to their vendors and their vendors must include approved timesheets when submitting an invoice.*
>
> *Additionally, contractors who are supervised by an HHSC IT workforce member must report their time in the Project Portfolio Management system, or PPM, per the Reporting Time-Effort Hours in PPM Process.*

As mentioned in the last paragraph of the ITSAC policy, in addition to an-HHSC-approved timesheet, contractors are also required to submit time-effort reports

twice monthly (on the fifteenth day and the last day of the month in PPM). This documents the contractor's time worked on a project, operational work request (OWR), maintenance work request (MWR), or miscellaneous items and is reviewed and approved by the HHSC supervisor, a state employee.

With the publication of the ITSAC Policy and PPM Process, the IT division has implemented measures that ensure contractor time is appropriately allocated and verified by a state employee before an invoice is approved by the ITSAC unit to be paid to the vendor.

Responsible Manager

Deputy Director, Expenditure Management

Director, IT Procurement and Contracting

Target Implementation Date

February 28, 2023 (Implemented)

September 7, 2022 (Implemented)

- ***Issue 2: Cost claimed twice*** *(Remaining total computable $131,874.00 and remaining federal share $98,905.00)*

  The State agency inappropriately claimed $131,874 for costs the State agency claimed twice as Medicaid costs on the CMS-64. First, the State agency paid its claims processing contractor for services it had provided and claimed those costs on the CMS-64 report. Next, the State agency allocated a portion of the claims processing contractor costs to another agency within the State government and billed that other agency for the allocated costs. The other agency reimbursed the State agency for the allocated costs. When the other agency's costs were later claimed on the CMS-64 report, the allocated costs, which had already been claimed once by the State agency, were claimed again.

  The State agency did not have adequate policies and procedures to detect when it claimed costs reimbursed by other agencies. As a result, the State agency inappropriately received $98,905 in Federal funds for costs it claimed twice.

Management Response:

We have researched the $98,905.00 federal share identified in the draft report for issue #2 and have concluded that the funds were reimbursements for invoices HHSC paid on behalf of DADS using State General Revenue (GR) funds and therefore were not associated with Medicaid in our books. Therefore, when HHSC received the payments from DADS, they were used to reimburse GR.

If any portion of the invoice was related to Medicaid, HHSC would have coded those portions of the original invoice payment to Medicaid, and then the payment would have been reported on the CMS-64. These portions for DADS were outside HHSC's Medicaid-related costs.

We have included a spreadsheet documenting this response (Attachment 1[1]). In the attachment, on column Y, the documentation provided by Account Receivables contains the HSAS journal entry details, the project/grant was coded to ZREV-IAC

[1] The Attachments referenced in this response will be uploaded separately to the DHHS-OIG's secure server with this response document.

or ZREV-IACDADS indicating these were non-Medicaid related and were correctly excluded from the CMS-64.

Attachment 1 includes a crosswalk tab that shows how these payments were manually excluded from Rev Sum.

Therefore, it is our position that the $98,905.00 federal share was not claimed twice, and the associated policies and procedures in place at that time were acceptable to detect when claimed costs were reimbursed by other agencies.

Responsible Manager

Accountant VII – Medicaid Reporting Team Lead

Target Implementation Date

N/A

- ***Issue 3: Unapproved Contractor Costs*** *(Remaining total computable $1,239,306.09 and remaining federal share $309,826.52)*

  The State agency claimed $1.2 million in costs at the enhanced 75-percent rate for a contractor that was not in the CMS-approved project APD. CMS approved a specific vendor, under contract, to provide the services. During the life of the project, the State agency used a different contractor without CMS approval.

  The State agency did not have policies and procedures in place to track its private MMIS contractor costs to APDs, so the State agency did not detect when it claimed costs for contractors that had not been approved through an APD. As a result, the State agency inappropriately received $309,827 in Federal funds (i.e., the difference in Federal funding at the enhanced rate and the otherwise applicable 50-percent administrative cost rate).

Management Response:

HHSC respectfully disagrees with the reported issue.

We have researched the Advance Planning Documents (APDs) and associated CMS approvals that are directly applicable to the original APD #TX-14-29 and identified the following:

- On November 18, 2014, CMS approved an I-APD-U (TX-14-29-APDU_MEHIS HP Contract Extension) to add scope and continue operations and services for the initial Medicaid Health Eligibility and Health Information System (MEHIS) renewal of the Hewlett Packard (HP) contract from the term of February 1, 2015 through August 31, 2016.
- During the contract extension with HP, the contractor began doing business as HP Enterprise Services, LLP. (Attachment 2)
- APDs were submitted by HHSC and approved by CMS to extend approval of MEHIS services through December 31, 2017. (Attachment 3)
- HHSC entered into a contract extension, effective January 1, 2018 with the contractor, now doing business as (dba) Enterprise Services, LLC. (Attachment 5)
- On August 1, 2017, HHSC submitted to CMS in an email (Attachment 4):
  - A copy of the contract extension (Attachment 5),
  - The contract extension proposal from DXC.technology (dba Enterprise Services, LLC) (Attachment 6 – see Page 3 of 12), and

    - An APD requesting an approval for services through December 2018. (Attachment 7)
- On September 28, 2017, CMS returned approval of the request through September 2018. (Attachment 8)

HHSC maintained and extended a contract with HP, who changed their dba during the approved contract extension periods. At no time did HHSC request reimbursement for a contractor that had not been previously approved for this MMIS project.

Responsible Manager

Deputy Executive Commissioner, Medicaid CHIP Service (MCS) Associate Commissioner's Office

Target Implementation Date

N/A

- ***Issue 4: Unapproved Allocation Methodology (PACAP-DIR issue)*** *(Remaining total computable $603,714.54 and remaining federal share $470,967.00)*

  The State agency inappropriately claimed, in the form of a fee, $603,715 in costs allocated to Medicaid using a methodology that was not in an approved Public Assistance Cost Allocation Plan (PACAP). The fee, which ranged from one to four percent of MMIS costs, was charged on most claimed costs.

  The State agency is required to procure MMIS contracts using contracts negotiated through the Texas Department of Information Resources (DIR), which delivers technology solutions to State and local government entities. DIR builds its administrative fee into the contract rates contractors charge other State agencies for services.

  The State agency's personnel were unaware the fee was being allocated to Medicaid costs. State officials said the fee would not be in the approved PACAP because it is not detailed down to the fee level. As a result, the State agency inappropriately received $470,967 in Federal funds for costs that that were not approved in a PACAP.

Management Response:

It is our understanding that Texas State Agencies do not claim fees associated with MMIS contractors from the Texas Department of Information Resources (DIR). These fees are included in the quoted price provided by the vendor and are not uniquely identified or separated from the quoted price of the product or service. DIR Vendors submit a monthly sales report to DIR, and DIR receives payment of the Administrative Fees from the Vendor.

The following details are included to address any concerns related to these fees.

Chapter 2157 of the Texas Government Code:

- Requires state agencies to purchase information technology (IT) commodities through DIR.
- Establishes DIR's authority to set administrative fees for such services, paid by the vendor for purchase of IT commodity products and services, that is sufficient to recover costs associated with the administration of these contracts.

- The fee is factored into the prices quoted to DIR Customers by the vendors.[2]
- DIR Vendors submit monthly sales reports to DIR. The Administrative Fee that was included in the customer's purchase price is then paid to DIR.

DIR also actively benchmarks pricing and fees to ensure that customers receive competitive pricing on the goods and services that they consume through DIR.

DIR designs these programs to generate savings for government entities using taxpayer funds by efficiently leveraging volume buying power to lower the IT acquisition costs and improve the quality of the state's investment in technology commodities.

Responsible Manager

Federal Funds Director

Target Implementation Date

N/A

[2] Currently the fees assessed for the Cooperative Contract Program range from 0.50% to 1%.

- ***Issue 5: Claimed at 90% rate but were approved at either 50% or 75% rate*** *(Remaining total computable $215,495.86 and remaining federal share $39,404.07)*

  The State agency claimed, at the enhanced 90-percent rate, $140,135 that was approved at either the 50-percent or the 75-percent rate because it was operational in nature. In some instances, the State's supporting documentation identified the amounts as operations amounts but charged the enhanced 90-percent rate rather than the 50-percent or the 75-percent rate.

  The State agency did not have adequate policies and procedures in place to track its private MMIS contractor costs to APDs, so the State agency did not detect when it claimed costs at incorrect matching percentages. As a result, the State agency inappropriately received $21,020 in Federal funds (i.e., the difference between Federal funding at the enhanced rates and the approved 50-percent or 75-percent rate).

Management Response:

Based on the small amount of the costs identified through the audit, it is clear that HHSC is claiming the correct matching percentages for these funds the vast majority of the time. However, HHSC is currently reviewing associated documentation related to this issue to verify whether there were incorrect claims and unallowable payments. The federal share associated with any payments confirmed as incorrectly claimed or unallowable will be refunded.

Responsible Manager

Deputy Executive Commissioner, MCS Associate Commissioner's Office

Target Implementation Date

Within one year from the date of the final report

Management Response to Recommendation 2

Recommendation 2: *We recommend that the Texas Department of Health and Human Services Commission ensure DIR costs are allocated to Medicaid based on an approved methodology in the Public Assistance Cost Allocation Plan (PACAP).*

Management Response:

During the call on April 25, the federal auditors indicated that the issue was not related to the Public Assistance Cost Allocation Plan (PACAP), which is used to allocate HHSC's internal costs. Instead, the auditors wanted HHSC to provide federal approval of the fee calculation that Texas Department of Information Resources (DIR) charges HHSC.

DIR is the official technology agency for the State of Texas. The primary services provided to HHSC by DIR are Data Center Services and Cooperative Contracts. While DIR is a state agency, in the provision of these administrative services, DIR functions as a contractor to HHSC. Therefore, the DIR administrative fees should be included in the contracted services, and do not require federal approval.

Responsible Manager

Federal Funds Director

Target Implementation Date

N/A

Management Response to Recommendation 3

Recommendation 3: *We recommend that the Texas Department of Health and Human Services Commission establish policies and procedures to ensure that its contractors' employees complete timesheets with sufficient detail of actual effort by project to support costs allocated to Medicaid and that it does not claim costs provided by unapproved contractors.*

Management Response:

In state fiscal year 2022, the IT division completed the IT Staff Augmentation Contractor (ITSAC) Improvement Initiative. The ITSAC Improvement Initiative had three goals:

- Improve data management and reporting
- Promote ethical, standardized practices
- Promote efficient practices

As part of the ITSAC Improvement Initiative, the IT division published the ITSAC Policy on September 7, 2022, completing the ITSAC Improvement Initiative.

Section 4.2.1 of the ITSAC Policy states:

> *Contractors must complete a timesheet to report the numbers of hours worked. The timesheet must include the:*
>
> - *Number of hours worked for each applicable department ID.*
> - *Purchase order number.*
>
> *Supervisors must review contractor timesheets for accuracy and must approve the timesheets once accuracy has been validated. The following are acceptable forms of timesheet approval:*
>
> - *Ink signature*
> - *Validated electronic signature*
> - *Email from the supervisor approving an attached timesheet*
>
> *Supervisors must monitor the number of hours contractors work, ensuring that the contractors do not exceed the number of hours on the purchase order.*
>
> *Contractors must submit their approved timesheets to their vendors and their vendors must include approved timesheets when submitting an invoice.*

> *Additionally, contractors who are supervised by an HHSC IT workforce member must report their time in the Project Portfolio Management system, or PPM, per the Reporting Time-Effort Hours in PPM Process.*

As mentioned in the last paragraph of the ITSAC policy, in addition to an-HHSC-approved timesheet, contractors are also required to submit time-effort reports twice monthly (on the fifteenth day and the last day of the month in PPM). This documents the contractor's time worked on a project, operational work request (OWR), maintenance work request (MWR), or miscellaneous items and is reviewed and approved by the HHSC supervisor, a state employee.

With the publication of the ITSAC Policy and PPM Process, the IT division has implemented measures that ensure contractor time is appropriately allocated and verified by a state employee before an invoice is approved by the ITSAC unit to be paid to the vendor.

Responsible Manager

Director, IT Procurement and Contracting

Target Implementation Date

September 7, 2022 (Implemented)

Management Response to Recommendation 4

Recommendation 4: *We recommend that the Texas Department of Health and Human Services Commission strengthen policies and procedures to track its private MMIS contractor costs to Advanced Planning Documents (APDs) and ensure that the Federal match is claimed at the approved rate and ensure that it doesn't claim costs when it is reimbursed for those costs by other agencies.*

Management Response:

HHSC has robust policies and procedures in place to track MMIS contractor costs to approved APDs. The breakdown of costs by federal financial participation (FFP) rate is determined during the development process of each new project/amendment based on the type of work performed. Budgets are created for the different FFP rates within the project/amendment and a unique department identification (DeptID) is assigned after CMS approves each APD.

HHSC reviews each invoice to determine if fees are within the budget outlined in the executed amendment or contract, are properly supported, and match the billing schedule. Invoices are then validated by applicable program staff before they are approved, logged, and submitted to Accounts Payable for payment.

Controls within the invoicing process ensure contractor costs track to the approved FFP rates. These include:

- A budget error occurs if an invoice causes a DeptID to exceed the approved budget by $0.01 or more. As previously stated, HHSC creates each DeptID based on the approved FFP rate in an APD.
- The Medicaid Budget Expenditure System will refuse to accept an actual overdraw during the Federal Quarterly Reporting process conducted by the HHSC Federal Reporting Office.

HHSC has policies, procedures, and controls in place to ensure correct federal match rates are used.

Responsible Manager

Deputy Executive Commissioner, MCS Associate Commissioner's Office

Target Implementation Date

Fully Implemented